

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

EMILY WILSON, CLINT SMITH and	:	CIVIL ACTION
WENDY KING	:	
	:	
v.	:	NO. 09-0787
	:	
RICHARD PALLMAN and	:	
EDWARD T. SCHAFER	:	

ORDER

AND NOW, this 7th day of August 2009, upon consideration of defendants' motions to dismiss, or in the alternative, for summary judgment (D. No. 4 and 5), plaintiff's response, defendants' reply and plaintiff's sur-reply thereto, it is hereby ORDERED that:

1. Defendants' motion to substitute defendant Thomas J. Vilsack for Edward T. Schafer as defendant Secretary of Agriculture in his official capacity is GRANTED;
2. Defendants' motion to transfer venue for plaintiffs Clint Smith and Wendy King is to the United States District Court for the Middle District of Pennsylvania is GRANTED and the claims of plaintiffs Smith and King are hereby transferred to the United States District Court for the Middle District of Pennsylvania ;
3. Defendants' motion for summary judgment on plaintiff Emily Wilson's Bivens claims against defendants Richard Pallman and Vilsack is GRANTED and plaintiff Wilson's Bivens claims are DISMISSED;
4. Defendants' motion for summary judgment on plaintiff Wilson's Title VII claims against defendant Pallman in his individual capacity is GRANTED and this claim is DISMISSED;
5. Defendants' motion for summary judgment on plaintiff Wilson's Title VII claims against

defendant Vilsack based on a failure to exhaust administrative remedies is DENIED;

6. Defendants' motion to dismiss plaintiff Wilson's Title VII claim of gender discrimination against defendant Vilsack is GRANTED without prejudice; plaintiff Wilson may amend her complaint to state a claim of gender discrimination within ten (10) business days from the date of this ORDER,
7. Defendants are ORDERED to file their answer to plaintiff Wilson's second amended complaint within sixty (60) days from the date of the filing of the amended complaint.

/s/ THOMAS N. O'NEILL, JR.
THOMAS N. O'NEILL, JR., J.